

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	
Plaintiff,)	
)	Case No. 04-0726-CV-DW
and)	
)	
CINDY JOHNSTON,)	
)	
Plaintiff/Intervenor,)	
)	
v.)	
)	
GARDEN CITY PLASTICS EQUIPMENT)	
AND SUPPLY CO., INC., and)	
PLASTIC PACKAGING CONCEPTS, INC.,))	
)	
Defendants.)	
)	

ORDER

Pending before the Court are the Defendants’ motions to dismiss (Doc. 5, 6) this Title VII case. The Plaintiffs filed suggestions in opposition (Docs. 14, 16) and the Defendants filed a reply brief (Doc. 17). The motions to dismiss contend that the Court lacks jurisdiction because the Defendants are not “employers” as defined by Title VII. See 42 U.S.C. § 2000e(b) (defining an employer as a person “engaged in an industry affecting commerce who has fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year.”). Defendant Garden City further argues that at no time did it employ the Plaintiff Cindy Johnson.

After reviewing the record and the parties’ documents, this is not even a close issue. For the reasons stated in the Plaintiffs’ suggestions in opposition, the Plaintiffs have pled ample facts

to allow this action to proceed to discovery.¹ Accordingly, it is hereby

ORDERED that the Defendants' motions to dismiss (Docs. 5, 6) are DENIED.

SO ORDERED.

_____/s/ Dean Whipple_____
Dean Whipple
United States District Judge

Date: 12/27/04

¹ Because the Defendants' motions to dismiss are without merit, the Court may pass on the issue of whether Title VII's fifteen employee requirement is jurisdictional. See Armbruster v. Quinn, 711 F.2d 1332, 1335 (6th Cir. 1983).